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PROTECTIVE OPTICS, INC.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PROTECTIVE OPTICS, INC.,
a California corporation

Plaintiff,

v.

PANOPTX INC.,
a California corporation

Defendant.

Case No. C05-02732 CRB

**STIPULATION AND ~~[PROPOSED]~~ ORDER
TO CONSOLIDATE AND SET HEARING ON
PARTIES' SUMMARY JUDGMENT
MOTIONS FOR JUNE 15, 2007**

Courtroom: 8, 19th Floor
Before: Hon. Charles R. Breyer

[Trial Date: August 6, 2007]

AND RELATED CROSS-ACTION

1 Plaintiff and Counterclaim-Defendant Protective Optics, Inc. and Defendant and
2 Counterclaimant Panoptx, Inc. (collectively, the “Parties”), by and through their undersigned
3 attorneys, state and agree as follows:

4 Whereas, on April 2, 2007, Protective Optics filed a Motion for Partial Summary Judgment of
5 Infringement which was previously set for May 18, 2007 [Docket No. 125];

6 Whereas, on April 27, 2007, Panoptx filed a Motion for Partial Summary Judgment of Patent
7 Invalidity for Failure to Comply With the Enablement Requirement which is set for hearing on June
8 1, 2007 [Docket No. 145];

9 Whereas, on May 11, 2007, Protective Optics filed a Motion for Partial Summary Judgment
10 on Panoptx’s Seventh Affirmative Defense for Patent Invalidity Under 35 U.S.C. §112 which is set
11 for hearing on June 15, 2007 [Docket No. 163];

12 Whereas, on May 14, 2007, this Court, *sua sponte*, rescheduled Protective Optics’ Motion for
13 Partial Summary Judgment of Infringement for June 1, 2007, at 10:00 a.m., the same date and time as
14 Panoptx’s Motion for Partial Summary Judgment of Patent Invalidity for Failure to Comply with the
15 Enablement Requirement [Docket No. 165];

16 Whereas, given the similarity of issues and the common interest in efficiently using the
17 Court’s and the Parties’ resources, the Parties agree that all three summary judgment motions should
18 be scheduled for the same date and time and heard on June 15, 2007, at 10:00 a.m., the date on which
19 Protective Optics’ Motion for Partial Summary Judgment on Panoptx’s Seventh Affirmative Defense
20 for Patent Invalidity Under 35 U.S.C. §112 is currently scheduled to be heard;

21 NOW THEREFORE, IT IS HEREBY STIPULATED by and between the Parties, subject to
22 Court approval, as follows, that:

- 23 1. the hearings on Protective Optics’ Motion for Partial Summary Judgment of
24 Infringement and Panoptx’s Motion for Partial Summary Judgment of Patent
25 Invalidity for Failure to Comply with the Enablement Requirement shall be
26 continued and rescheduled for June 15, 2007, at 10:00 a.m. in Courtroom 8;

1 DATED: May 21, 2007

GREENBERG TRAURIG, LLP

2
3 By: /s/ Daniel T. McCloskey
4 Daniel T. McCloskey

5 Attorneys for Plaintiff and Counterclaim-
6 Defendant,
7 **PROTECTIVE OPTICS, INC.**

8 DATED: May 21, 2007

KRIEG, KELLER, SLOAN, REILLEY & ROMAN, LLP

9
10 By: /s/
11 Michael D. Lisi

12 Attorneys for Defendant and Counterclaimant,
13 **PANOPTX, INC.**

14 I, Daniel T. McCloskey, am the ECF User whose ID and password are being used to file this
15 Stipulation and [Proposed] Order to Consolidate and Set Hearing On Parties' Summary Judgment
16 Motions for June 15, 2007. In compliance with General Order 45, X.B., I hereby attest that Michael
17 D. Lisi has concurred in this filing.

18
19 Dated: May 21, 2007

By: /s/ Daniel T. McCloskey
20 Daniel T. McCloskey

21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

22
23 Dated: May 21, 2007

24 HON. CHARLES R. BREYER
25 UNITED STATES DISTRICT COURT

